

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN COTTMAN,

Defendant.

Case No. 2:18-cr-00129-JCM-DJA

ORDER

On January 15, 2021 Defendant Cottman filed a Motion for Determination of Mental Competency Pursuant to 18 U.S.C. 4241(a). ECF No. 163). On January 27, 2021 the Court held a hearing on the motion and ordered that the motion be granted and that the defense designate a local doctor to conduct the evaluation. (ECF No. 174). On February 26, 2021 the defense filed a sealed notice regarding the competency evaluation which included the report from the examination by the local doctor. (ECF No.176). On March 5, 2021 the Government filed a response to the notice (ECF No. 177), and on March 9, 2021, the defense filed a reply to the response. (ECF No. 178). On March 12, 2021, this Court conducted a status conference and heard arguments as it pertains to the Competency Evaluation of Defendant Cottman filed on February 26, 2021. (ECF No. 176). After hearing arguments from the parties and considering all of the relevant documents related to this issue, the Court indicated that a written Order would follow.

Based on the foregoing and good cause appearing therefore,

IT IS ORDERED that:

1. In accordance with 18 U.S.C. § 4241 the United States Marshal's Service shall forthwith transport Defendant Benjamin Cottman to a suitable Bureau of Prisons ("BOP") facility

1 that conducts psychological evaluations closest to the court, for psychiatric or psychological
2 evaluation to determine whether Defendant is presently suffering from a mental disease or defect
3 rendering him mentally incompetent to the extent that he is unable to understand the nature and
4 consequences of the proceedings against him or to assist properly in his defense.

5 2. Defendant shall be held in a BOP facility for a reasonable period of time, not to
6 exceed thirty days, unless extended by further order of the court upon a showing of good cause by
7 the director of the facility that the additional time is necessary to observe and evaluate Defendant,
8 or by appropriate motion, for a period of up to fifteen additional days. 18 U.S.C. § 4247(b).

9 3. The examination conducted pursuant to this order shall be conducted by one or
10 more licensed or certified psychiatrists or clinical psychologists. 18 U.S.C. § 4247(b).

11 4. A psychiatric or psychological report shall be prepared by the examiner designated
12 to conduct the psychiatric or psychological examination. The person designated to conduct the
13 psychiatric or psychological examination shall file the report, under seal, with the court and
14 provide copies to Allison Reese, Assistant United States Attorney, and to Kevin Stollworthy,
15 counsel for Defendant.

16 5. The report shall include:

- 17 a. Defendant's history and present symptoms;
18 b. A description of the psychiatric, psychological or medical tests that
19 were employed and their results;
20 c. The examiner's findings;
21 d. The examiner's opinions concerning whether Defendant is suffering
22 from a mental disease or defect rendering him mentally incompetent to the extent that he is
23 unable to understand the nature and consequences of the proceedings against him, or to assist
24 properly in his defense.
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1 Additionally, the Court sets a status hearing on this matter for April 16, 2021 at 11:00 a.m.
2 in a courtroom to be determined for the purpose of setting a date for a competency hearing.

3 IT IS SO ORDERED.

4 DATED: March 15, 2021

A handwritten signature in blue ink, appearing to read 'D. Albregts', is written over a horizontal line.

DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE